

Atty. Dkt. No. 046948-0113 (fka 071402-0115)

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1, 4, 14 and 21 are currently being amended. No new matter is added.

No claims are being added.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-17 and 21-23 are now pending in this application.

In paragraphs 3-4 of the Office Action, claims 1-3 are rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 4,637,221 (Levine) in view of U.S. Patent No. 4,019,689 (Hunt). The Examiner states:

Levine discloses the claimed invention except for the speed control allowing the motor to be ramped up. Hunt teaches a blender which has a continuously variable speed control for the motor. . . . It would be obvious to modify Levine so that the speed control ramps up the speed of the motor, in view of Hunt for the purpose of providing more precise control of the motor.

Applicant respectfully traverses the rejection.

In paragraph 5 of the Office Action, claims 4-6, 9 and 14 are rejected under 35 U.S.C. § 103 as being unpatentable over Levine in view of U.S. Patent No. 2,745,261 (Merrill). The Examiner states:

Atty. Dkt. No. 046948-0113 (fka 071402-0115)

Levine discloses a claimed invention except for separate inlets for the ice cream and inclusions. Merrill teaches an ice cream having an inlet 34 for the liquid ice cream mix and an inlet 74 for the inclusions Thus, it would be obvious to provide Levine with separate inlets for the ice cream mix and inclusions, in view of Merrill, for the purpose of providing distinct inlets for the different ingredients.

Applicant respectfully traverses the rejection.

In paragraph 6 of the Office Action, claims 8, 15-17, 21 and 22 are rejected under 35 U.S.C. § 103 as being unpatentable over Levine in view of Merrill and in view of Hunt. Applicant respectfully traverses the rejection. Levine, Merrill and Hunt are referred to below as the cited art.

To advance prosecution, Applicant has amended claims 1, 4, 14 and 21 to include the limitations related to the reverse operation of the auger similar to allowed claim 7. Independent claim 1 recites:

wherein the speed control includes a reverse speed and the motor is mechanically coupled to an auger, wherein the auger is utilized in a forward direction to produce ice cream and in reverse direction to mix inclusions into the ice cream from an inclusions input.

Independent claim 4 recites:

wherein liquid ice cream is provided to the ice cream input and semi-solid or solid inclusions are provided to the inclusions input, wherein the auger is used to produce frozen ice cream from the liquid ice cream and to mix the inclusions, wherein the auger is operated in a reverse direction or to introduce the inclusions and a forward direction to produce the solid ice cream.

Independent claim 14 recites:

wherein the means for mixing is operated in the forward motion to move ice cream from the ice cream input and in the reverse motion to mix inclusions from the inclusions input.

Atty. Dkt. No. 046948-0113 (fka 071402-0115)

Independent claim 21 recites:

at least one motor for mixing the ice cream in the tank at a first velocity and for mixing semi-solid or solid inclusions at a second velocity and an ice cream input for receiving liquid ice cream and an inclusions input for receiving the solid or semi-solid inclusions, the inclusions input being closer to an ice cream output than to the ice cream input, wherein the first velocity is a forward motion and the second velocity is a reverse motion.

Accordingly, each of the rejected independent claims 1, 4, 14 and 21 now recites a feature related to the use of a reverse operation to mix inclusions and a forward operation to produce ice cream.

Such feature is not shown, described or suggested in the cited art. Merrill discloses the operation of an auger in a single direction. Reverse direction for inclusions is not shown, described or suggested. Hunt and Levine fail from the same deficiency. Levine does not even disclose separate inlets for the ice cream and inclusions. Likewise, Hunt does not disclose a first direction for ice cream and a second direction for introducing inclusions. Therefore, it is respectfully submitted that rejected claims 1-6, 8, 9, 14-17, 21 and 22 are now allowable.

In paragraph 7 of the Office Action, the Examiner indicates that claim 7, 10-13 and 23 are allowable.

* * * * *

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check

Atty. Dkt. No. 046948-0113 (fka 071402-0115)

being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

Date 8-10-2005

FOLEY & LARDNER LLP
Customer Number: 26371
Telephone: (414) 297-5768
Facsimile: (414) 297-4900

By Joseph N. Ziebart
Joseph N. Ziebart
Attorney for Applicant
Registration No. 35,421